

**REPORT TO CONGRESS
INFRASTRUCTURE INVESTMENT AND JOBS ACT
NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 REPORTING PROGRAM**

Federal Highway Administration

Introduction and Authority

Section 11312 of the Infrastructure Investment and Jobs Act (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”) amends Chapter 1 of Title 23, United States Code (U.S.C.), to create Section 157 titled the “National Environmental Policy Act of 1969 Reporting Program.” Under this program, the Secretary of Transportation is charged with carrying out a process to track, and annually submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the following information on documentation of the National Environmental Policy Act (NEPA) of 1969:

- A. The number of proposed actions¹ for which a categorical exclusion (CE)² was issued during the reporting period.³
- B. The number of proposed actions for which a documented CE⁴ was issued by the U.S. Department of Transportation (DOT) during the reporting period.
- C. The number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented CE by DOT is pending.
- D. The number of proposed actions for which an environmental assessment (EA)⁵ was issued by DOT during the reporting period.
- E. The length of time DOT took to complete each EA⁶ described in subparagraph (D).
- F. The number of proposed actions pending on the date on which the report is submitted for which an EA is being drafted by DOT.

1 The term “proposed action” is defined in 23 U.S.C. 157(a)(7) and means an action (within the meaning of NEPA (42 U.S.C. 4321 et seq.)) under title 23 that the Secretary proposes to carry out.

2 The term “categorical exclusion” is defined in 23 U.S.C. 157(a)(1) and has the meaning given the term in Section 771.117(c) of Title 23, Code of Federal Regulations (CFR) (or a successor regulation).

3 The term “reporting period” is defined in 23 U.S.C. 157(a)(8) and means the fiscal year prior to the fiscal year in which a report is issued.

4 The term “documented categorical exclusion” is defined in 23 U.S.C. 157(a)(2) and has the meaning given the term in section 771.117(d) of title 23, CFR (or a successor regulation).

5 The term “environmental assessment” is defined in 23 U.S.C. 157(a)(3) and has the meaning given the term in Section 1508.1 of Title 40, CFR (or a successor regulation).

6 Completion time for an EA begins on the date on which the designated official makes a determination to prepare an EA and ends on the date on which the designated official issues a Finding of No Significant Impact or determines that preparation of an EIS is necessary. The completion time was rounded up to the closest number of months.

- G. The number of proposed actions for which an environmental impact statement (EIS)⁷ was completed by DOT during the reporting period. The length of time DOT took to complete each EIS⁸ described in subparagraph (G).
- H. The number of proposed actions pending on the date on which the report is submitted for which an EIS is being drafted.
- I. For the proposed actions reported under subparagraphs (F) and (I), the percentage of those proposed actions for which funding has been identified; and all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.

The Federal Highway Administrator of the Federal Highway Administration (FHWA) is delegated the authority in Title 49, Code of Federal Regulations, Paragraph 1.85(a), to carry out 23 U.S.C., including new Section 157. This report includes all proposed actions where FHWA (or a state with NEPA assignment per 23 USC 326 and /or 23 USC 327) is the lead agency, regardless of funding source.

The Federal Permitting Dashboard (Dashboard) at <https://www.permits.performance.gov/> is being used to help track information for EAs and EISs initiated after June 1, 2016. For projects not on the Dashboard, the start and completion dates were pulled from FHWA's internal tracking database, Project and Program Action Information System (PAPAI). The tables below include information on the status of NEPA documentation for the current reporting period of October 1, 2021, to September 30, 2022. The information includes:

- Table 1 provides the number of CEs issued by FHWA or by State DOTs under Categorical Exclusion Assignment (23 U.S.C. 326 or 23 U.S.C. 327) during this reporting period.⁹
- Table 2 provides the number of documented CEs issued by FHWA during the reporting period and the number of documented CEs started but not completed (pending) as of the last day of the reporting period.
- Table 3 provides the number of EAs issued by FHWA during this reporting period, including the number of months it took to complete each EA. It also provides the number of EAs pending as of the last day of the reporting period, the percentage of the pending EAs that have identified funding, and the Federal, State, and local activities that are required to allow the EA to proceed.
- Table 4 provides the number of EISs issued by FHWA during this reporting period, including the number of months it took to complete each EIS. It also provides the number of EISs pending as of the last day of the reporting period, the percentage of the

⁷ The term "environmental impact statement" is defined in 23 U.S.C. 157(a)(4) and means a detailed statement required under Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)).

⁸ Time to complete for an EIS begins on the date on which the Notice of Intent is published in the Federal Register and ends on the date on which the Secretary issues a Record of Decision. It does not include the time a project is on pause. The completion time was rounded up to the closest number of months.

⁹ Many FHWA Division Offices have entered into programmatic agreements with State Departments of Transportation (DOTs) as provided under 23 CFR 771.117(g) to allow State DOTs to make CE approvals on FHWA's behalf.

pending EISs that have identified funding, and the Federal, State, and local activities that are required to allow the EIS to proceed.

The time to complete an EA begins with the date FHWA (or State DOT in NEPA Assignment States) determines to prepare an EA and ends with the completion of a FONSI. The time to complete an EIS begins on the date on which the Notice of Intent is published in the Federal Register and ends on the date on which the Secretary issues a Record of Decision. The completion time calculated for EAs and EISs does not include the length of time a project was placed in pause status on the Federal Permitting Dashboard. A project is placed in pause status on the Federal Permitting Dashboard when all actions are halted for reasons outside of Federal agency control (such as fiscal constraint or changes in scope of project), and it is unknown when progress will resume.

The timeframes to complete some of the EAs and EISs within this reporting period go well beyond the current timeframes required in recent legislation. This is because the funding provided in BIL gave the project sponsors the ability to complete environmental documents that had made no progress for many years. These projects were not subject to the timeframe provisions now in place to accelerate project delivery, so did not advance at the same pace as newer projects. Also, supplementing an EIS can account for longer than normal timeframes to complete the document. For reported EIS projects with a Supplemental document, additional information was added to Table 4 to show the completion time from the start of the supplement to the FONSI/ROD. The expectation is that with the new provisions in BIL, the funding provided by Congress in the Inflation Reduction Act to improve the efficiency of environmental reviews, and the changes to NEPA from the Fiscal Responsibility Act of 2023, that the timeframes to complete EAs and EIS for highway projects will continue to decline.

Table 1: Categorical Exclusions (October 1, 2021, to September 30, 2022)

Categorical Exclusions (771.117(c) only)	
<i>Proposed Actions Issued</i>	
Number	13,192

Table 2: Documented Categorical Exclusions (October 1, 2021, to September 30, 2022)

Documented Categorical Exclusions (771.117(d) only)	
<i>Proposed Actions Issued by FHWA</i>	
Number	952
<i>Proposed Actions Pending</i>	
Number	559

Table 3: Environmental Assessments (October 1, 2021, to September 30, 2022)

Environmental Assessments		
<i>Environmental Assessments Completed (FHWA): 34 Total</i>		
Project Name	State	Completion Time
Tanana River Recreation Access Improvements ¹⁰	AK	20 months
Gee Creek Structures and Approaches	AR	48 months
Northwest Arkansas National Airport Access	AR	30 months
88th Avenue, I-76 to Highway 2	CO	36 months
I-20 Access Road	GA	30 months
Interchange and widening-Cusseta Road/Old Cusseta Road/CR 62 from Fort Benning to Staunton Drive	GA	27 months
Lansing Bridge Replacement	IA	74 months
Illinois 100/106 River Crossing Project	IL	41 months
Deerfield Rd. U.S. 45/IL 21 Milwaukee Avenue to Saunders/Riverwood Road	IL	69 months
I-80 from Ridge Road to US 30	IL	118 months
US 24 and SR 19 Intersection Improvement	IN	3 months
Convert US 31 to Limited Access from SR 38 (Hamilton County) to SR 931 (Tipton County)	IN	23 months
Kennedy Avenue Improvements, US 30 to Main Street	IN	114 months
I-70 Polk/Quincy Viaduct and Approach Roadway Project	KS	9 months
US 69 Expansion 103rd to 179th	KS	17 months
US 150 Improvements	KY	43 months
Reconstruction KY 207 from the Industrial Parkway to the KY 693 Intersection in Flatwoods	KY	130 months

¹⁰ Tanana River Recreation Access Improvement Project is a Western Federal Lands-led project and is not assigned under the 23 U.S.C. 327 NEPA Assignment Program.

Old Hammond Highway Improvements ¹¹	LA	23 months
US 11 Norfolk Southern Railroad	LA	112 months
I-375 Corridor	MI	62 months
I-494 from TH 169 to TH 5 (aka MSP Airport to Highway 169)	MN	23 months
Gunter Road Ext. (aka Florence Byram Parkway)	MS	29 months
Interconnecting Gulfport Airport Road Extension and I-10 Overpass	MS	30 months
Hampton Harbor Bridge Project	NH	47 months
Round Hill Pines Access Project	NV	26 months
US 75 and Preston Road	OK	11 months
SR 222 – 28M Widening Project	PA	3 months
Billy Swails Boulevard – Phase 4B	SC	54 months
US 121/Route 460 (Corridor Q), Section IIIB (Poplar Creek) – Phase B	VA	1 month
Route 7/Route 690 (Hillsboro Road) Interchange	VA	51 months
Elwha River Bridge Replacement	WA	37 months
I-41 Project (Brown and Outagamie Counties)	WI	22 months
Greenbag Road Improvement Project	WV	26 months
US 340 Rock Slide Repair Project	WV	26 months
<i>Environmental Assessments Completed (Assigned per 23 USC 327): 26 Total</i>		
Project Name	State	Completion Time
Sterling Safety Corridor Improvements MP 82.5 to 94	AK	68 months
Sunset Road: I-10 to River Road	AZ	9 months
Arroyo De La Laguna: Replace/Rehab Bridge for Scour Mitigation, Bridge Rail Upgrade and Seismic Retrofit	CA	43 months
Monterey Bay Sanctuary Scenic Trail	CA	38 months
Elk Creek Bridge Replacement Project	CA	60 months
Faith Home Road – 4-Lane Expressway	CA	49 months
Pulga Profile Change Project	CA	49 months
SR132 Dakota Avenue to Gates Road	CA	44 months
South Avenue Safety Project	CA	19 months
SBD 247 Pavement and Shoulder Widening	CA	17 months
State Route 128 Hopper Slough Bridge Replacement Project	CA	43 months

¹¹ In 1997 and 1998, the Louisiana Department of Transportation and Development (DOTD) performed an Environmental Assessment (EA) for Old Hammond Highway from Airline Highway to Millerville Road. The 1998 EA divided the project into two phases. In June 1998, the Federal Highway Administration (FHWA) issued a Finding of No Significant Impact (FONSI) for the entire corridor. DOTD constructed the first phase from Airline Highway to Boulevard De Province, but the second phase was not completed due to funding. In 2015 DOTD and FHWA determined that since revisions have been made to DOTD Engineering and Design Standards, a new document titled “EA Supplement” would be generated for the 1998 EA for the Old Hammond Highway Phase 2 project.

State Route 84 Real McCoy Fenders and Ramps Replacement Project	CA	17 months
Bridge Scour Improvements	CA	21 months
SR 166: California Aqueduct Bridge Replacement	CA	72 months
Broadway Bridge Construction	CA	62 months
Five Cities Multimodal Transportation Network Enhancement Project	CA	64 months
SR 88 Pavement Anchor Project	CA	24 months
Venetian Causeway Bridges	FL	73 months
FM 3349 at US 79 (FM 3349 and CR 110)	TX	14 months
FM 756 Paluxy Drive	TX	7 months
IH 10 (from FM 2434 to US 90)	TX	43 months
IH-35 Capital Express North	TX	86 months
IH-35 Capital Express South	TX	23 months
Loop 1604 from FM 78 to IH 10	TX	78 months
US 59/US 77 Widening (from Business US 59T to 77S)	TX	17 months
US 77 (from Lee County Line to SH 71)	TX	16 months
<i>Proposed Actions Pending</i>		
Number of EAs Pending as of 10/1/2022	77 (FHWA); 63 (Assigned per 23 U.S.C. 327)	
Percentage of proposed actions for which funding has been identified ¹²	100 percent	
Percentage pending projects for which all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.	0 percent	

¹² The identification of funding indicated here is not the same as FHWA's fiscal constraint requirement.

Table 4: Environmental Impact Statements (October 1, 2021, to September 30, 2022)

Environmental Impact Statements		
<i>Environmental Impact Statements Completed (FHWA): 7 Total</i>		
Project Name	State	Completion Time
I-11 Corridor Study ¹³	AZ	66 months
Sonoran Corridor – Tier 1 EIS ¹⁴	AZ	54 months
South Lawrence Trafficway/K-10 West Leg in Douglas County (Supplemental EIS) ¹⁵	KS	42 months
Chesapeake Bay Crossing Tier 1 Study	MD	55 months
I-495/I-270 Managed Lanes Study	MD	53 months
I-81 Viaduct	NY	105 months
Champlain Parkway/Southern Connector ¹⁶	VT	24 months
<i>Environmental Impact Statements Completed (Assigned per 23 USC 327): 1 Total</i>		
Project Name	State	Completion Time
El Camino Real Roadway Renewal Project	CA	17 months
<i>Proposed Actions Pending</i>		
Number of EISs Pending as of 10/1/2022	21 (FHWA); 10 (Assigned per 23 U.S.C. 327)	
Percentage pending projects for which funding has been identified ¹⁷	100 percent	
Percentage pending projects for which all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.	0 percent	

13 FHWA-AZ Division retained the I-11 Corridor Study Tier 1 EIS since it was underway when the 23 U.S.C. 327 NEPA Assignment Memorandum of Understanding (MOU) was approved.

14 FHWA-AZ Division retained the Sonoran Corridor Tier 1 EIS since it was underway when the 23 U.S.C. 327 NEPA Assignment MOU was approved.

15 A previous EIS was prepared in 1990 for the overall South Lawrence Trafficway study area. As an outcome of the approved 1990 EIS, two expressway lanes of the West Section (I-70 to U.S. 59) were constructed and opened to traffic in 1996. This SEIS, a supplement to the 1990 FHWA EIS, considered new or additional environmental impacts based on the introduction of new improvement options for the SLT corridor.

16 The Champlain Parkway / Southern Connector project received a Record of Decision (ROD) in 2010. The project's ROD was rescinded on October 11, 2019 to "perform targeted outreach to any minority and low-income populations in the project study area in order to determine whether the conclusions reached in the 2009 Final SEIS and 2010 ROD remain valid."

17 The identification of funding indicated here is not the same as FHWA's fiscal constraint requirement.